

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1171 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
05/07/2004 in WP NO : 3728 OF 2004 on the file of the High Court.)

Between:

Vijaya Medical & Fancy Stores, Singh Nagar Vijayawada rep. by its

Proprietor, Sri G.L. Vijay Kumar

..... APPELLANT

AND

- 1 The Chairman, HDS Govt. General Hospital, Vijayawada.
- 2 The Superintendent, Convener, HDS, Govt. General Hospital, Vijayawada.
- 3 Santosh Medical Stores, Betencharla, Kurnool, District rep. by Sri Damodar.

.....RESPONDENT(S)

Counsel for the Appellant:MR.M.V.S.SURESH KUMAR

**Counsel for the Respondent Nos.1 and 2: GP FOR MEDICAL HEALTH &
FAMI.WELFARE**

Counsel for the Respondent No.3: Mr. G. Vidyasagar

The Court made the following Oral Judgment:(per Sri Devinder Gupta, CJ)

The writ petition of the appellant was allowed to the extent that the award of tender in favour of 3rd respondent was set aside. While setting aside the award of tender in favour of 3rd respondent by the same order impugned in the writ petition, this Court directed the respondents to issue fresh notice clearly specifying the conditions or stipulations required to be complied with by the tenderers for being considered for allotment of shop to run in the premises of Government Hospital, Vijayawada.

The writ petitioner-appellant is aggrieved by the subsequent direction of issuing fresh tender notice on the ground that the learned single judge after setting aside the order of tender in favour of 3rd respondent ought to have awarded the tender in favour of the appellant since he has fulfilled all the conditions.

We have heard the learned counsel and gone through the record. The only grievance now made by the appellant is that after setting aside the award of tender in favour of 3rd respondent, only appellant remained in the fray and tender ought to have been awarded to the appellant.

In fact, such a prayer cannot be considered. The tender conditions stipulated furnishing of Income Tax and Sales Tax Clearance certificates. Admittedly, appellant had not furnished Income Tax Clearance Certificate and bent upon a Circular dated 13/2/2003 issued by the Income Tax Department and sought to contend that there was no such requirement. Learned single judge had examined this aspect and came to the conclusion that such a stipulation in the tender notice ought not to have been there and because of the said requirement being there in the tender notice, many aspirants similarly situated may not have come forward in making

their respective bids and for that reason, the learned single judge felt that it would be fair and reasonable to direct the respondents to issue fresh tender notice allowing the parties to participate in the tender.

There is no illegality or irregularity in the order passed by the learned single judge. The writ appeal is accordingly dismissed. No costs.

DEVINDER GUPTA, CJ

Date: 9th August, 2004

C.V.RAMULU,J

Pnb

To

1. The Chairman, HDS Govt. General Hospital, Vijayawada.
2. The Superintendent, Convener, HDS, Govt. General Hospital, Vijayawada.
3. Santosh Medical Stores, Betencharla, Kurnool, District.
4. Two C.Cs. to the Government Pleader for Medical Health and

Family Welfare, High Court Buildings, Hyderabad (OUT).

5. Two C.D copies

